ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	**CC Docket No. 96-128**
	)	
Policies and Rules Concerning Operator Operator Service Access and Pay Telephone Compensation	)	**CC Docket No. 91-35**

To: The Commission

REPLY COMMENTS
OF
IPSP AD HOC COMMITTEE FOR CONSUMER CHOICE
("IPSP")

The IPSP Ad Hoc Committee for Consumer Choice ("IPSP") was formed to preserve the rights of location providers to chose their primary interexchange carrier to service the payphones located on their premises. IPSP was also formed to preserve the rights of independent payphone providers to maintain their existing contracts with location providers against coercive and unfair competitive tactics of the Regional Bell Operating Companies ("RBOCs") newly authorized by Section 278 of the Telecommunications Act of 1996 to compete in the payphone marketplace. IPSP has been attempting to bring to the attention of state regulatory bodies, state attorneys general, the Telecommunications Task Force of the Department of Justice's Antitrust Division and this Commission the abusive, anticompetitive and coercive conduct of the RBOCs occurring daily in the payphone marketplace.

Attached hereto are copies of correspondence sent recently to the DOJ Task Force and to the FCC's own Competition Enforcement Task Force and Common Carrier Enforcement Division detailing the unlawful tactics being used by RBOCs to deny location providers the right to select a PIC for their payphones; the right of independent payphone providers to perform their written and oral contracts with location providers; and the right of location providers to retain RBOC payphones as CPE on their premises unless they also agree, under direct threat of removal of those phones, to accede to the RBOCs' insistence that the location provider select as the PIC for the RBOC phones its subsidiary or internal division which has contracted with an unaffiliated IXC to provide long distance services to those phones.

It is not necessary here to repeat in detail the unlawful tactics being used by the RBOCs in the newly created market niche opened to their participation. As thus far developed, these are set forth in the attached correspondence. It will suffice here to point out in summary fashion that what is being experienced in the marketplace by IPSP members and their customers involves: (1) deliberate tying of access to CPE (payphones) to RBOC-provided long distance services; (2) RBOC contracting with unaffiliated entities to restrain trade; (3) using their newly created payphone subsidiaries or division, the direct competitors of the IPSP members, as the required conduit through which IPSPs and their customers must attempt to provision service orders; (4) using these new RBOC subsidiaries or divisions to block access by IPSPs and their customers to the provisioning side of the RBOC's parent or dominant exchange network and, thereby, frustrating the submission of such orders; and (5) deliberate violation of the implementing CEI plans filed by and approved by the FCC as a condition precedent to the RBOCs' right to commence operations under Section 278 of the Act.[1]

These matters are being brought to the attention of the Commission in this proceeding to rebut certain assertions made by and on behalf of the RBOC members in the "Comments of the RBOC/GTE/SNET Payphone Coalition" ("Payphone Coalition"). For example, in arguing that the Commission should not resort to periodic, full-blown cost proceedings to set per-call compensation, the Payphone Coalition cites the FCC's rejection the TELRIC methodology advanced by AT&T.[2] The relevance of this observation is explained by the fact that TELRIC was designed to allow new entrants to take advantage of the incumbent monopolist's monopoly advantages so as to be able to "rapidly acquire potential bottleneck elements that they cannot promptly supply themselves."[3] The Payphone Coalition then states: "Unlike local exchange facilities, payphones cannot even conceivably be construed as bottlenecks, and there are no significant economies of scope or scale."[4]

The tactics being used in the payphone marketplace belie this assertion. By tying the ownership of the payphones and long distance services together, the RBOCs have, in fact, figured out a way to make payphones a bottleneck and, in doing so, defeat the purposes of Section 278, the

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[1] The tactics complained of herein were first brought to the attention of the Commission by an "Emergency Motion for Interim Order to Show Cause and to Cease and Desist and Formal Complaint filed by Operator Communications, Inc. d/b/a ONCOR Communications, filed May 30, 1997.

[2] Payphone Coalition Comments at 30, n.18.

[3] Id.

[4] Id.

FCC's reliance on nonstructural separation safeguards, such as CEI plans, and the goal of increasing competition in the provisioning of payphone service.

The second invalid assertion is contained at page 35 of the Payphone Coalition comments. Here the Payphone Coalition argues for appropriate compensation for 0+ calls during the interim period.

> Although the RBOCs and GTE are now allowed to participate in carrier selection, long term contracts between location owners and IXCs - grandfathered by Section 276 - still preclude them from obtaining "fair" compensation on 0+ calls.

Given the tactics outlined above and in the attachments, the RBOCs have obviously taken matters into their own hands and are either systematically interfering with location owner contracts or simply ignoring their existence.

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The contradictions evident in the conduct of RBOCs and their positions asserted in this proceeding should be cause for grave concern. The seriousness of the anticompetitive tactics being deliberately pursued by the RBOCs transcend any relevancy they might otherwise have been given to the comments cited on the issues for which they were submitted. It matters little that the actual facts do not support a position disfavoring the use of TELRIC or that a bar to entering contracts for 0+ has some theoretical potential. The conduct of the RBOCs, in attempting to eliminate independent payphone provider competition by illegal tying arrangements, conspiracies in restraint of trade and creating a bottleneck where none existed, should be of overriding importance to the Commission, the states and the Justice Department.

Respectfully submitted,

The IPSP AD HOC COMMITTEE FOR CONSUMER CHOICE

By: Charles H. Helein

Charles H. Helein, Its Counsel

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Dated: September 9, 1997

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JUL 30 1997
Enforcement Division

July 30, 1997

Federal Communications Commission
Common Carrier Bureau
Enforcement Division
Enforcement Task Force
2025 M Street, N.W.
Washington, D.C. 20554

Re: Action Required on Payphone Competition – Regional Bell Operating Companies

Ladies & Gentlemen:

This firm represents independent payphone service providers ("IPSP") which are confronting strong-arm tactics from the Regional Bell Operating Companies ("RBOCs") in their efforts to enter into the provisioning of payphone services to location providers ("customer(s)").

The tactics being used by RBOCs such as Ameritech and BellSouth are as follows.

BellSouth. BellSouth requires customers to use the long distance carrier (Teltrust) BellSouth selected to carry all long distance traffic from the public payphones on the customer's premises and imposing a monthly untariffed charge of $15 if the customer refuses to select Teltrust. This practice was confirmed by the BellSouth public payphones supervisor. This person confirmed that BellSouth has mailed letters to all BellSouth payphone locations in nine states announcing that Teltrust has been selected as BellSouth's PIC. This letter further advises that if end users also select Teltrust, there will no extra charge assessed; but, if a PIC other than Teltrust is chosen, a $15 monthly charge is assessed. In addition, the BellSouth payphone supervisor confirmed that BellSouth pays no commissions to payphone locations who have Teltrust as their PIC.

For semi-public phones, BellSouth follows the same policy. For example, an RV Park operator in Georgia pays a tariffed $35 per month charge to maintain a semi-public payphone for campers, visitors and business use, as necessary. When the camp operator didn't change to Teltrust, the monthly bill from BellSouth increased to $50.

BellSouth also uses marketing materials to create the false impression that customers are required by law (the 1996 Act) to reevaluate their long distance PIC and that BellSouth controls the entities that may provide local and long distance services to the customer.

BellSouth uses prepared forms and correspondence which leverages BellSouth's status as the local exchange carrier to conceal the fact that BellSouth is actually soliciting the customer to make changes in its authorized agency for purposes of choosing a long distance carrier.

Specific instances of other BellSouth improper tactics about which empirical data has been developed include, but are not limited to, the following:

While discussing a change in the PIC for two payphones for an oil company operation in a three-way conference call among BellSouth, an IPSP and the end user, BellSouth's representative first agreed to the change to a PIC other than Teltrust, then recanted to "check with her marketing department." The end user was told to expect a call in two days from BellSouth's marketing department and the conversation ended without BellSouth implementing the end user's PIC selection.

A business in Marathon, Florida was slammed. Abruptly, payphones at this location stopped showing any traffic under the existing IPSP serving this location. This occurred after a site visit by a BellSouth representative who also informed the end user that if Teltrust was not selected as the PIC, BellSouth would remove its payphones from the premises.

Ameritech. Ameritech's marketing tactics vary from those of BellSouth, but have the same purpose, to gain unfair competitive advantage over IPSPs.

Ameritech uses a form Letter of Agency appointing Ameritech as the customer's agent to coordinate all payphone activities. In addition, the LOA contains language which directs the customer's independent PIC to turn over to Ameritech all of that PIC's contractual information with that customer. The LOA contains a clause that if the PIC fails to respond and provide the information within seven days of the LOA's execution, it is deemed that no contract exists with the PIC, the contract has expired or that the PIC has abandoned its rights. Another clause serves notice that the customer is not renewing its contract with its PIC and authorizes Ameritech to change its PIC immediately.

Customers are unaware of the legal import of signing this LOA. This is evident from the cavalier disregard for the factual reality of the status of any PIC contractual arrangements which the LOA purports to supersede. No PIC contract or tariff contains provisions permitting it to be interpreted by a non-party whose interests are adverse to the contracting parties, much less that the non-party may interpret that contract as being non-existent, expired or abandoned because of a condition (failure to respond within seven days) created by the non-party to effect its own ends.

Ameritech's LOA should be held to constitute improper interference with existing IPSP customer contracts and, hence, clearly illegal under FCC policies and requirements.

For new IPSP customers, Ameritech engages in a different tactic, one contradictory to the tactic used against an IPSP's existing customers. First, it is necessary to understand that, at present, Ameritech has contracted with LDDS WorldCom ("LDDS") to be Ameritech's chosen long distance PIC for Ameritech-provided payphone service. Customers are then subjected to a deliberate tie-in arrangement of Ameritech.

When a customer signs the contract with Ameritech to place payphones on that provider's premises, the customer is either made to select, or construed by Ameritech to have chosen, LDDS as its long distance PIC for its payphones, According to an Ameritech spokeswoman in Evansville, Indiana, Lisa [no last name provided], the customer "signs" a contract selecting LDDS as the PIC. Once "signed up" however, the customer is not permitted by Ameritech to change that PIC.

In another case, a customer in the hospitality industry was marketed by an IPSP agent. In a conference call with the agent and Ameritech, the customer told Ameritech it had selected a PIC other than LDDS. Ameritech's representative, Ruth [no last name given], advised that the customer "had already selected Ameritech." LDDS was not even mentioned. Having made such "selection," the customer was not permitted to change its PIC. Ruth then stated- - "Debbie [IPSP agent], you can't change his 0+. Ameritech is the only one who can offer this." The Ameritech representative went on to inform both the IPSP agent and the customer that Ameritech was handling the long distance service from here on out.

In still another case, LDDS faxed the IPSP requesting the existing contract between the IPSP and the customer. LDDS claimed that the customer had requested that Ameritech provide the long distance to the payphones of the customer.

LDDS knew this customer was this particular IPSP's from LDDS' own database. In effect, Ameritech started out acting as an agent and submits a request to LDDS to change the customer's long distance service over. LDDS has the customer in its database as the IPSP's customer. LDDS then sends out a fax and provides the IPSP with 5 days in which to send the IPSP's contract with the customer to LDDS, or it will switch the customer to Ameritech.

The IPSP investigated the matter. It determined that the customer had never been contacted by Ameritech or LDDS, and never signed any document or form to change his PIC. He also stated that he controlled the selection of the PIC. In short, an attempted incidence of "slamming" was involved.

The IPSP then contacted its own LDDS rep and related the foregoing events and requested to see Ameritech's contract with the customer. LDDS' IPSP rep eventually got back and reported the following. The rep requested the contact person's name for the customer and when told, admitted that was not the name of the person who allegedly authorized a switch to Ameritech. The person who alledgely was involved was not the customer representative who has authority to make such a decision.

Adding further to the concerns, Ameritech's policy, consistently applied over the past two to three years, contradicts its current tactics. Ameritech's past practice has been not to accept written contracts to change PICs; insisting instead on hearing directly from the customer by telephone.

Today when Ameritech's preferred telephonic communications procedure is followed, the results are quite different. For example, recently (July 15, 1997), the IPSP agent arranged a three-way conference call with the customer, herself and Ameritech. The Ameritech representative, Sharon [no last name given], listened politely to all the information being provided to change the customer's PIC, then informed the IPSP and customer, that the customer records would need to be checked, placed the parties on hold, but never came back on line. This was the second such episode on that same day.

In another incidence, Ameritech's "Sharon" inquired of the customer on-line if he was a new owner because the account ID number did not match with her records. At that point, Sharon abruptly stated that Ameritech would send the customer a contract for long distance and that Ameritech would be handling the long distance and hung up the phone.

Another customer's request to PIC the IPSP during a three-way conference call was denied on the basis that the Federal tax ID number was said by Ameritech's "Sharon" to be incorrect. The customer's Federal tax ID number was not incorrect.

Another agent of Ameritech, Carol [no last name given], also requested the Federal tax ID number of a customer during a three-way conference call to order service. The customer took a moment and retrieved the number, but when it was provided, Carol stated -- "I noticed that you have Ameritech on the [pay]phone, I can't make the change [the customer was requesting]." Carol then simply said "Good-Bye" and hung up the phone. Later, a test call was placed and it was determined that the payphone had been previously presubscribed to an LDDS affiliate. Hence, what Carol meant when she said that this customer was on Ameritech, is that having formerly presubscribed to LDDS, Ameritech would not accept the change in this customer's PIC.

LDDS/Worldcom's role in all this was explained in part by representatives of LDDS as follows. LDDS takes the position that Ameritech's payphones are COCOTS and that LDDS representatives hold LDDS out to the public as a "regulated COCOT vendor."

LDDS is informed that Ameritech is using three methods to sign payphone location providers to Ameritech/LDDS interLATA service -- on-site sales calls; telemarketing and bundling a service request in Ameritech's payphone installation contracts at the time of their execution. LDDS representatives claimed, however, not to have seen these contracts and also to be unaware that Ameritech tells customers that if they select LDDS through Ameritech, the customer will not be permitted to change PICs in the future.

Ameritech's payphone operations are headquartered in Evansville, Indiana, and are apparently headed up by Marcus Boyd. A telephone conversation with Mr. Boyd provided the following information.

Ameritech has approximately 230,000 payphones it owns in its five-state territory. It employs 50-60 Account Executives ("AEs") who make on-site visits to place Ameritech phones on premises and arrange for commissions on the coin traffic generated. Using a list of expired site contracts, AEs are to re-sign these location providers to new contracts with standard three to five year terms, although, a one year term may be made available.

All new payphones installed must take LDDS as the PIC, the customer is denied, indeed is given no opportunity to exercise, any discretion in the selection of the PIC. Nor at this time is the customer informed that the PIC may never be changed so long as the Ameritech payphone is installed on the premises. If the customer happens to make inquiry about the PIC, he/she may then be told that LDDS must be selected and that no change in LDDS as the PIC will be allowed as long as Ameritech's payphones are installed on the premises.

Ameritech's installation contract is one page in length, covering placement of the phone, and provisioning of intrastate and interstate traffic, with a specific reference to providing interLATA traffic originating from the payphone(s).

The contract does not name the interLATA carrier, that is, does not identify or even mention LDDS as the PIC for the phone under the contract. This omission is deliberate and explained as follows. Ameritech is "positioning themselves [sic] to be the long distance carrier" on the payphone after Ameritech gains the right to enter the interLATA market for long distance.

Although admitting that the AEs probably should disclose LDDS as the PIC, the AE s "are having a problem with this." In fact, the AEs avoid mentioning that the PIC for the payphone in question is being switched to LDDS, so customers have no idea that LDDS will be their phone's PIC.

When the contract is turned in by an AE, no verification of the customer's knowledge or selection of LDDS is made or attempted. No other checks are run to verify customer service needs or selections. No check is made whether the AE spoke with the authorized representative of the customer. No check is made whether the contract and all its terms were discussed with the customer. No mention is made that the PIC is being changed or that the customer has forfeited any rights to make a change in the future (a restriction enforced with the threat that Ameritech will remove its phones if a change is attempted). Although Ameritech receives hundreds of these contracts a day, no checks on proper signatures or knowledgeable execution are made.

Mr. Boyd admitted that an AE can get anyone to sign the contract and there is a recognized probability that the premises owner will have no knowledge of what has transpired. While there appears to be a limited recognition that these procedures, or lack thereof, are not proper, rather than institute corrective measures, the problem is passed off as being one of sloppy work on the part of the AEs -- "AEs are not the best with details or paper work."

In almost all cases, location providers will obtain a better commission rate from IPSPs than from Ameritech/LDDS. However, given Ameritech's tactics, not only is this fact unavailable to customers, but its advantage is denied by the coercive methods used requiring selection of LDDS and Ameritech.

The concern about the coercive tactics, misinformation and misrepresentation takes on added dimension for the smallest location providers. Here, Ameritech employs the United States mail to effect its scheme. For one payphone site, with low volume, Ameritech mails the contract to the customer. If the contract is not returned, no commissions at all are paid until they sign the contract. The mailing of the contract provides no information that explains the PIC change being demanded or the consequences of doing so.

Ameritech has generated its own LOA form. Ameritech claims this form provides it with the right to act as go-between for the customer by requesting a signed contract from any carrier serving the payphone at that time. Ameritech is seeking to obtain the PIC's contract with the customer in order to obtain the contract's start date, expiration date and a signature. Ameritech has been told by AT&T that its contracts with its payphone customers are none of Ameritech's business and has rejected the LOA as invalid and of no effect.

The foregoing episodes present a serious anticompetitive, consumer fraud, slamming and misuse of the mails, scenario which warrants immediate and effective regulatory intervention and cure. On a broader basis, it clearly shows that, permitted their freedom to "compete" in hitherto closed markets, the RBOCs' monopoly cultures will rule and control management decisions, resulting in abusive tactics designed to ensure continued dominance over telecommunications services in the RBOCs' operating territories.

Even more chilling to the prospects of success for the immense efforts at both the federal and state levels to replace traditional regulation with open competition, is the message being signaled here. If the RBOCs will stoop to such low tactics in connection with a small niche market of long distance services via payphones, what they will attempt in regard to the main market for general long distance services will be as bad or worse.

Supportive documentation and affidavits are available. It is requested that a meeting be arranged to discuss what action and procedures should be considered to address the concerns raised herein.

Respectfully submitted,

Charles H. Helein
Counsel for the
IPSP Ad Hoc Committee
For Consumer Choice

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Donald J. Russell, Chief
U.S. Department of Justice
Antitrust Division
Telecommunications Task Force
1401 H Street, N.W.
Suite 8000
Washington, D.C. 20530

Re: ***Action Required on Payphone Competition – Regional Bell Operating Companies***

Dear Mr. Russell:

As your Task Force is responsible to assist the Federal Communications Commission in evaluating applications under Section 271 of the Telecommunications Act of 1996, you are respectfully advised of the following facts.

This firm represents independent payphone service providers ("IPSP") which are confronting strong-arm tactics from the Regional Bell Operating Companies ("RBOCs") in their efforts to enter into the provisioning of payphone services to location providers ("customer(s)").

The tactics being used by RBOCs such as Ameritech and BellSouth are as follows.

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Specific instances of other BellSouth improper tactics about which empirical data has been developed include, but are not limited to, the following:

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Customers are unaware of the legal import of signing this LOA. This is evident from the cavalier disregard for the factual reality of the status of any PIC contractual arrangements which the LOA purports to supersede. No PIC contract or tariff contains provisions permitting it to be interpreted by a non-party whose interests are adverse to the contracting parties, much less that the non-party may interpret that contract as being non-existent, expired or abandoned because of a condition (failure to respond within seven days) created by the non-party to effect its own ends.

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The IPSP investigated the matter. It determined that the customer had never been contacted by Ameritech or LDDS, and never signed any document or form to change his PIC. He also stated that he controlled the selection of the PIC. In short, an attempted incidence of "slamming" was involved.

The IPSP then contacted its own LDDS rep and related the foregoing events and requested to see Ameritech's contract with the customer. LDDS' IPSP rep eventually got back and reported the following. The rep requested the contact person's name for the customer and when told, admitted that was not the name of the person who allegedly authorized a switch to Ameritech. The person who alledgely was involved was not the customer representative who has authority to make such a decision.

Adding further to the concerns, Ameritech's policy, consistently applied over the past two to three years, contradicts its current tactics. Ameritech's past practice has been not to accept written contracts to change PICs; insisting instead on hearing directly from the customer by telephone.

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In another incidence, Ameritech's "Sharon" inquired of the customer on-line if he was a new owner because the account ID number did not match with her records. At that point, Sharon abruptly stated that Ameritech would send the customer a contract for long distance and that Ameritech would be handling the long distance and hung up the phone.

Another customer's request to PIC the IPSP during a three-way conference call was denied on the basis that the Federal tax ID number was said by Ameritech's "Sharon" to be incorrect. The customer's Federal tax ID number was not incorrect.

Another agent of Ameritech, Carol [no last name given], also requested the Federal tax ID number of a customer during a three-way conference call to order service. The customer took a moment and retrieved the number, but when it was provided, Carol stated -- "I noticed that you have Ameritech on the [pay]phone, I can't make the change [the customer was requesting]." Carol then simply said "Good-Bye" and hung up the phone. Later, a test call was placed and it was determined that the payphone had been previously presubscribed to an LDDS affiliate. Hence, what Carol meant when she said that this customer was on Ameritech, is that having formerly presubscribed to LDDS, Ameritech would not accept the change in this customer's PIC.

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Ameritech's payphone operations are headquartered in Evansville, Indiana, and are apparently headed up by Marcus Boyd. A telephone conversation with Mr. Boyd provided the following information.

Ameritech has approximately 230,000 payphones it owns in its five-state territory. It employs 50-60 Account Executives ("AEs") who make on-site visits to place Ameritech phones on premises and arrange for commissions on the coin traffic generated. Using a list of expired site contracts, AEs are to re-sign these location providers to new contracts with standard three to five year terms, although, a one year term may be made available.

All new payphones installed must take LDDS as the PIC, the customer is denied, indeed is given no opportunity to exercise, any discretion in the selection of the PIC. Nor at this time is the customer informed that the PIC may never be changed so long as the Ameritech payphone is installed on the premises. If the customer happens to make inquiry about the PIC, he/she may then be told that LDDS must be selected and that no change in LDDS as the PIC will be allowed as long as Ameritech's payphones are installed on the premises.

Ameritech's installation contract is one page in length, covering placement of the phone, and provisioning of intrastate and interstate traffic, with a specific reference to providing interLATA traffic originating from the payphone(s).

The contract does not name the interLATA carrier, that is, does not identify or even mention LDDS as the PIC for the phone under the contract. This omission is deliberate and explained as follows. Ameritech is "positioning themselves [sic] to be the long distance carrier" on the payphone after Ameritech gains the right to enter the interLATA market for long distance.

Although admitting that the AEs probably should disclose LDDS as the PIC, the AE s "are having a problem with this." In fact, the AEs avoid mentioning that the PIC for the payphone in question is being switched to LDDS, so customers have no idea that LDDS will be their phone's PIC.

When the contract is turned in by an AE, no verification of the customer's knowledge or selection of LDDS is made or attempted. No other checks are run to verify customer service needs or selections. No check is made whether the AE spoke with the authorized representative of the customer. No check is made whether the contract and all its terms were discussed with the customer. No mention is made that the PIC is being changed or that the customer has forfeited any rights to make a change in the future (a restriction enforced with the threat that Ameritech will remove its phones if a change is attempted). Although Ameritech receives hundreds of these contracts a day, no checks on proper signatures or knowledgeable execution are made.

Mr. Boyd admitted that an AE can get anyone to sign the contract and there is a recognized probability that the premises owner will have no knowledge of what has transpired. While there appears to be a limited recognition that these procedures, or lack thereof, are not proper, rather than institute corrective measures, the problem is passed off as being one of sloppy work on the part of the AEs -- "AEs are not the best with details or paper work."

In almost all cases, location providers will obtain a better commission rate from IPSPs than from Ameritech/LDDS. However, given Ameritech's tactics, not only is this fact unavailable to customers, but its advantage is denied by the coercive methods used requiring selection of LDDS and Ameritech.

The concern about the coercive tactics, misinformation and misrepresentation takes on added dimension for the smallest location providers. Here, Ameritech employs the United States mail to effect its scheme. For one payphone site, with low volume, Ameritech mails the contract to the customer. If the contract is not returned, no commissions at all are paid until they sign the contract. The mailing of the contract provides no information that explains the PIC change being demanded or the consequences of doing so.

Ameritech has generated its own LOA form. Ameritech claims this form provides it with the right to act as go-between for the customer by requesting a signed contract from any carrier serving the payphone at that time. Ameritech is seeking to obtain the PIC's contract with the customer in order to obtain the contract's start date, expiration date and a signature. Ameritech has been told by AT&T that its contracts with its payphone customers are none of Ameritech's business and has rejected the LOA as invalid and of no effect.

Bell Atlantic. The practices complained of continue to spread. This past week, Bell Atlantic announced its refusal to accept anymore orders from its competitors to change PICs for end user location providers. The technique is the same. If the end user wants to keep its payphone terminal, it may deal only with Bell Atlantic and its provider of long distance service, in this case, MCI.

In discussing this with Bell Atlantic representatives, further light was thrown on the tactics being followed. First, the Bell Atlantic personnel who used to handle the ordering process for independent payphone providers were personnel of the monopoly exchange arm of Bell Atlantic. Now that section 276 and the FCC's actions have permitted the BOCs to provide competitive payphone services, the personnel handling the orders have remained the same. However, these personnel now work for Bell Atlantic's competitive payphone division. In short, Bell Atlantic has deliberately inserted its own competitive payphone operations in between end users and its monopoly exchange operations and uses this intervention to deny acceptance of PIC selection or change orders from end users and the independent payphone providers competing for their business.

The effect of these tactics is to block access by end users and competitors to the monopoly access provider to process orders. In addition, the end user's right to retain use of the payphone terminals is tied to the use of the BOC's payphone service. When considered in combination, it seems inescapable that these tactics raise a series of anticompetitive, restraint of trade concerns.

The BOCs deliberate insertion of their newly created competitive payphone divisions or subsidiaries in between the end users and competitors and the BOCs' exchange access operating systems prevent competitors and end users from freely selecting a PIC to service their payphone traffic.

The threat to remove payphones, unless the PIC with which the BOC has contracted to be its new partner in providing competitive payphone services, ties equipment with services and exerts a chilling influence on end users' freedom of choice and independent payphone providers' ability to compete.

Partnering with an outside PIC in the anticompetitive atmosphere created by the tactics being used would appear to constitute grounds for a finding of a conspiracy in restraint of trade as between the BOC and its "competitive" payphone division or subsidiary and the PIC.

Summary and Request. The foregoing episodes present a serious anticompetitive, consumer fraud, slamming and misuse of the mails scenario, which warrants immediate and effective regulatory intervention and cure. On a broader basis, it clearly shows that, permitted their freedom to "compete" in hitherto closed markets, the RBOCs' monopoly cultures will rule and control management decisions, resulting in abusive tactics designed to ensure continued dominance over telecommunications services in the RBOCs' operating territories.

Even more chilling to the prospects of success for the immense efforts at both the federal and state levels to replace traditional regulation with open competition, is the message being signaled here. If the RBOCs will stoop to such low tactics in connection with a small niche market of long distance services via payphones, what they will attempt in regard to the main market for general long distance services will be as bad or worse.

Supportive documentation and affidavits are available. It is requested that a meeting be held to discuss what action and procedures should be considered to address the concerns raised herein. Time is growing critical.

Respectfully submitted,

Charles H. Helein
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IPSP Ad Hoc Committee
For Consumer Choice

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CERTIFICATE OF SERVICE

I, Suzanne M. Helein, a secretary in the law offices of Helein & Associates, P.C., do hereby state and affirm that I have caused copies of the foregoing "Reply Comments of The IPSP Ad Hoc Committee for Consumer Choice ("IPSP")," in CC Docket Nos. 96-128 and 91-35, to be served in the manner indicated, on this 9th day of September, 1997, upon the following:

Secretary Federal Communications Commission 1919 M Street, N.W. Room 222 Washington, D.C. 20554 (Via Hand Delivery)	(Original + four copies)
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Suzanne M. Helein

Suzanne M. Helein, Legal Secretary